

Rule 8, Ariz. R. Crim. P.

SPEEDY TRIAL — Defense counsel's duty to advise court of Rule 8 time limits in advance — Revised 11/2009

Rule 8 requires the defendant to notify the court of an impending speedy trial deadline. Rule 8.1(d), Ariz. R. Crim. P.(1) As the Court of Appeals stated in *State v. Vasko*, 193 Ariz. 142, 148 & 25, 971 P.2d 189, 195 (App. 1998), "the purpose of Rule 8.6 is to afford a defendant relief from a speedy trial violation before his untimely trial." [Emphasis in original.] In *State v. Spreitz*, 190 Ariz. 129, 138, 945 P.2d 1260, 1269 (1997), *reversed in part on other grounds*, *State v. Spreitz*, 2002 Ariz. 1, 39 P.3d 525 (Jan. 30, 2002), the Court reiterated the purpose behind the duty to advise of upcoming Rule 8 time limits:

Our decisions regarding a defendant's duty to assert speedy trial rights are predicated in substantial part on the concern that defendants may "wait until after the [Rule 8.2 time limit] has expired and then claim a Rule 8 violation after it is too late for the trial court to prevent the violation." *State v. Swensrud*, 168 Ariz. 21, 23, 810 P.2d 1028, 1030 (1991).

In *State v. Techy*, 135 Ariz. 81, 85, 659 P.2d 40, 44 (App. 1982), the Court of Appeals discussed the appropriate sanctions to impose when defense counsel intentionally fails to advise the court of the impending time limits:

The second part of Rule 8.1(d) provides that failure to advise the court may result in sanctions. We believe that where the failure to advise the court is intentional, as in this case, the only appropriate sanction in some cases may be to consider the time during which such conduct has occurred as excluded, thus resulting in a denial of a motion to dismiss.

¹ Rule 8.1(d), Ariz. R. Crim. P., provides:

Duty of Defense Counsel. The defendant's counsel shall advise the court of the impending expiration of time limits in the defendant's case. Failure to do so may result in sanctions and should be considered by the court in determining whether to dismiss an action with prejudice pursuant to Rule 8.6.